

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

JAMES DARWIN CARTER,)
Plaintiff,)
v.)
USAA PROPERTY AND CASUALTY)
COMPANY,)
Defendant)
)
)
)
)
)
Case No. _____
Law Court for Sullivan County, Tennessee
No. C41672 (M)

NOTICE OF REMOVAL

Defendant USAA General Indemnity Company (“USAA GIC”), a Texas corporation, incorrectly identified as USAA Property and Casualty Insurance Company, LLC, in the Complaint, gives notice of the removal of the action *James Darwin Carter v. USAA Property and Casualty Insurance Company, LLC*, No. C41672 (M), from the Law Court for Sullivan County, Tennessee, at Kingsport.

I. BACKGROUND

1. On October 11, 2014, Plaintiff James Darwin Carter (“Carter”) filed a Complaint against USAA GIC in the Law Court for Sullivan County, Tennessee, at Kingsport, raising various claims related to USAA GIC’s handling of an insurance claim that Carter made under an insurance policy.
2. In the Complaint, Carter alleges that USAA GIC breached the insurance contract and acted in bad faith. Carter seeks actual damages in the amount of \$59,381.41, plus statutory damages of 25% of the loss for bad faith failure to pay (\$14,845.35), plus punitive damages, pre-judgment interest, costs, and attorneys’ fees. Therefore, the amount in controversy exceeds \$75,000. (**Exhibit A, Complaint**).

3. USAA GIC is a Texas corporation with a principal place of business in San Antonio, Texas, where it maintains its headquarters from which its corporate officers direct, control, and coordinate its activities. *Hertz Corp. v. Friend*, 559 U.S. 77, 92 (2010). USAA GIC is a wholly owned subsidiary of United Services Automobile Association (“USAA”), which has its headquarters in San Antonio, Texas.

II. JURISDICTIONAL BASIS FOR REMOVAL

4. This case may be removed based upon the diversity of citizenship between the parties. Pursuant to 28 U.S.C. § 1446(c)(2)(A), the value of the damages claimed exceeds \$75,000.00 (Exhibit A, *Complaint*). USAA GIC is not a resident of Tennessee; Carter has not alleged anything to the contrary (Exhibit A, *Complaint*, ¶ 2). Therefore, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(a)(1) and USAA GIC may remove this action to this Court pursuant to 28 U.S.C. §§ 1441(a).

III. PROCEDURAL REQUIREMENTS FOR REMOVAL

5. Carter commenced this action on October 11, 2016, by filing the Complaint against USAA GIC in the Law Court for Sullivan County, Tennessee, in Case No. C41672 (M).

6. USAA GIC received a copy of the Complaint on October 27, 2016, by service of process on its registered agent, CT Corporation System, Knoxville, Tennessee (**Exhibit A, Service of Process Transmittal**). This Notice of Removal (“Notice”) was filed on November 22, 2016. Accordingly, this Notice is timely pursuant to 28 U.S.C. § 1446(b).

7. As required by 28 U.S.C. § 1441(a), this civil action is being removed “to the district court of the United States for the district and division embracing the place where such action is pending.” The United States District Court for the Eastern District of Tennessee, Greeneville, Division.

8. Pursuant to 28 U.S.C. § 1446, USAA GIC has attached a copy of all process, pleadings, and orders served on USAA GIC.

9. USAA GIC will promptly file a copy of this Notice of Removal with the Clerk of the Law Court for Sullivan County, at Kingsport, pursuant to 28 U.S.C. § 1446(d) and give written notice to Carter.

WHEREFORE, pursuant to 28 U.S.C. § 1441, USAA GIC removes this action to the United States District Court for the Eastern District of Tennessee, Greeneville Division.

Respectfully submitted,

/s/ M.A. Fulks

Mark A. Fulks (No. 019387)

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CERTIFICATE OF SERVICE

I certify that I filed the foregoing Notice of Removal with the Clerk of the United State District Court for the Eastern District of Tennessee, Greeneville Division, and that I served a copy of the foregoing Notice of Removal by first class mail on the Plaintiff at the following address:

David N. Darnell
Dean Greer & Associates
2809 E. Center Street
Kingsport, Tennessee 37664

on the 22nd day of November 2016.

/s/ M.A. Fulks

Mark A. Fulks